IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 10110 of 2007(C)

CMP.1565/2007 of J.M.F.C.-I, CHERTHALA
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PETITIONER:

RAJESWARI,W/O.UTHAMAN,'DEVI LAKSHMI',
C.M.C 15, CHERTHALA.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENTS:

UTHAMAN,S/O.VASU,ARUN NIVAS,EZUPUNNA P.O
CHERTHALA.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.10110 of 2007

Dated this the 26th day of March, 2007

J U D G M E N T

The petitioner and the respondent are spouses. There is acrimony between the spouses. The wife, the petitioner herein had filed a complaint under Section 498 A I.P.C. The same was registered and referred to the police and Ext.P2 crime has been registered on the basis of Ext.P1 complaint under Section 498 A I.P.C.

2. The husband has also filed a complaint alleging commission of offence punishable, inter alia, under Sections 406 & 420 I.P.C. That complaint-Ext.P3 was also referred by the learned Magistrate to the police. Ext.P4 F.I.R has been registered. Investigation is in progress.

3. During the pendency of investigation, an application has been filed and search warrant has been issued by the learned Magistrate. Residence of the petitioner was searched and the keys of Chamayam Super Shoppe-the business establishment regarding which there is dispute, has been seized by the police. The keys have been produced before the learned Magistrate. Applications have been filed by both sides for release of the keys to them. The learned Magistrate has already heard the rival contestants and the matter stands posted for orders.

4. It is at this stage that the petitioner has come before this Court with this petition with a prayer to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C. The petitioner-wife contends that the disputes are pending before the Family Court and in these circumstances, the learned Magistrate may not be permitted to release the keys, at any rate, to the respondent herein.

5. Admittedly there is no interim order issued by the Family Court in any civil dispute between the parties. The respondent has entered appearance through counsel. He submits that it is not necessary at all to issue any interim directions. There is no necessity to apprehend or assume that the learned Magistrate would not pass appropriate orders on merits. Parties have been given full opportunity to raise and substantiate their contentions and the learned Magistrate may be permitted to pass appropriate orders, it is urged.

6. The learned counsel for the petitioner then submits that even if the learned Magistrate were permitted to pass orders on the application for release of the keys, the said order may be directed to be not implemented until further orders of this Court. The Family Court, Alappuzha is not sitting and until the Family Court, Alappuzha resumes sitting and passes orders in the civil matter, which stands posted to 01.04.2007, there may be an interim direction to the learned Magistrate not to actually hand over the keys to either of the contestants, prays the learned counsel for the petitioner .

7. I have considered all the relevant inputs. I must alertly remind myself of the nature, quality and contours of the jurisdiction which is sought to be invoked. The extraordinary inherent jurisdiction is not to be invoked as a matter of course. Special reasons must be shown to exist to justify invocation of such extraordinary inherent powers.

8. Admittedly the learned Magistrate is seized of the matter. Both parties have been given opportunities to raise their respective contentions and I am of opinion that there are no circumstances justifying issue of any directions under Section 482 Cr.P.C to interfere with such course which has already been initiated before the learned Magistrate. I have no reason to assume that appropriate order shall not be passed and any order passed by the learned Magistrate will certainly be subject to the resolution of the civil dispute of the parties.

9. This Writ Petition is, in these circumstances, dismissed.

10. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-